THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9484 of 2002

Dated:04.07.2007

Between
Ontillu Lalithamma

.....Petitioner

and

1.The District Collector,
Chittoor and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9484 of 2002

ORDER:

This writ petition is filed challenging the proceedings in Rc.No.1671/2000-A4(Pts) dated 29.9.2001 of the District Collector, whereunder the prosecution was accorded when the petitioner-Ex-sarpanch of Durga Samudram Gram Panchayat, Tirupati Rural Mandal failed to submit explanation to the notice issued by the 1st respondent to show cause as to why she should not be prosecuted under Section 409 of IPC for misutilization of the funds of the Municipality.

It appears that only on the ground that the petitioner-Ex-Sarpanch had not produced the records for investigation, the respondent-authorities have come to the conclusion that

the petitioner had misappropriated the funds. Therefore, the 1st respondent accorded prosecution. Before passing the impugned proceedings, no reasons were furnished therein for prosecution. The show cause notice would itself indicate that since the petitioner has not produced the records, the authorities have come to the conclusion that the petitioner mis-utilized the funds and therefore, she was liable for prosecution. I am of the opinion that the conclusions reached by the authorities are without any basis. Simply because the records were not furnished, on that ground alone the authorities cannot come to the conclusion that there was mis-utilization of funds. In fact it is for the authorities to show that the petitioner has mis-utilized the funds.

Under those circumstances, the impugned proceedings are quashed leaving liberty to the respondents to proceed with the matter, as per law, after putting the petitioner on notice.

Writ petition is allowed accordingly. No costs.

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04-07-2007

rkk